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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/867,301

05/29/2001

Robert H. Scheer

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6151

34018

7590

05/19/2005

GREENBERG TRAURIG, LLP

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CHICAGO, IL 60601-1732

EXAMINER

JASMIN, LYNDIA C

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/867,301

Applicant(s)

SCHEER, ROBERT H.

Examiner

Lynda Jasmin

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,4-18 and 20-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-18 and 20-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Response received on February 7, 2005 has been acknowledged.

#### ***Terminal Disclaimer***

2. The terminal disclaimer filed on February 7, 2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of Patent Number 09/867,068 has been reviewed and is accepted. The terminal disclaimer has been recorded.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 4-18, 20-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elston (2002/0143655 A1), in view of Wetzler (6,738,748).

Elston et al. discloses a method for moving one or more physical items in a supply chain that is distributed over a plurality of geographic locations (via directory for all locations or geographic region for customer places an order with one physical outlet among a group of affiliated merchants for fulfillment) with the steps of: using a network of intelligent agents (via transaction managers or owner) to move the physical items

specified in the advance demand notice within the supply chain (via moving to a pick up location or delivery time designed).

Elston et al. further discloses using an equipment knowledge base (via a remote ordering system). Elston et al. further discloses coordinating with a carrier to move the physical items within the supply chain (inherently recited via order delivery to a customer-selected location or type of transaction: pick up or delivery at customer location). Further, monitoring the movement of the physical items within the supply chain (via the ordering delivery system 40) and forming alternative fulfillment plan (via alternative remote order process flow), ordering product from a supplier to initiate the moving of items within the supply chain (via the remote ordering system), using a customer defined level of service to move the items specified in the advance demand notice (see [00180]), using the current and developing states of inventory within the supply chain to move the items specified in the advance demand notice within the supply chain and taking into account a desired level of safety stock when moving the items specified in the advance demand notice within the supply chain (see boxes [0259-0265]).

However Elston fails to explicitly disclose extracting information from a maintenance system indicative of a change in a scheduled maintenance work order to create an advance demand notice that includes a specification of one or more physical items.

Wetzer et al. discloses the concept of performing predictive maintenance where communications network supports a distributed entity that manages predictive

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maintenance of equipment. Wetzer further discloses a longevity estimator which support predictive maintenance by executing one or more of the following activities: (1) passing through a reference estimated longevity provided by a supplier data source or an operational data source to a scheduler; (2) modifying a reference estimated longevity provided by the supplier data source to be consistent with the usage data provided by the operational data source; (3) deriving a reference estimated longevity for a component by using usage data, historical maintenance data, or both; (4) monitoring component performance or system performance with reference to a predetermined performance profile, while the component or system is in use, and (5) identifying performance anomalies, potential deficiencies, or actual deficiencies relative to the requisite predictive maintenance.

Wetzer further discloses moving the physical items as a function of a probability of need for each item via the scheduler determining a probability of failure for each component or assembly of a configuration. The scheduler may schedule predictive maintenance based on one or more of the following items: 1) if the configuration is out-of-date due to the recent detection of a defect or a discrepancy which would likely cause the equipment to be unavailable or nonfunctional; 2) if an estimated probability of failure for a component meets or exceeds a threshold probability of failure for the component; 3) if an estimated probability of failure for an assembly meets or exceeds a threshold probability of failure for the assembly of components; and 4) if an estimated probability of failure for the equipment meets or exceeds a threshold probability of failure overall for the equipment.

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From this teaching of Wetzer, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the order fulfillment capability of Elston et al. to include the predictive maintenance events taught by Wetzer in order to predict maintenance service events of a product.

### ***Response to Arguments***

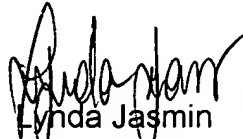
5. Applicant's arguments with respect to claims 1, 4-18, and 20-45 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda Jasmin whose telephone number is (571) 272-6782. The examiner can normally be reached on Monday- Friday (9:30-6:00) with Increased Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Linda Jasmin 5/16/05  
Primary Examiner  
Art Unit 3627

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